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Elections to fill vacancies in subsidiary organs and other elections: election of fourteen members of the Human Rights Council

Note verbale dated 26 November 2012 from the Permanent Mission of Mexico to the United Nations addressed to the President of the General Assembly

The Permanent Mission of Mexico to the United Nations presents its compliments to the Office of the President of the General Assembly and has the honour to refer to the candidature of the Government of Mexico to the Human Rights Council for the period 2014-2016 at the election to be held in New York in November 2013, during the sixty-eighth session of the General Assembly.

In this connection, pursuant to General Assembly resolution 60/251, the Permanent Mission of Mexico is transmitting herewith a document entitled "Candidature of Mexico to the Human Rights Council, 2014-2016", and requests that this document be circulated as a document of the Assembly (see annex).

The Permanent Mission of Mexico wishes to note that the Government of Mexico is thereby submitting the voluntary pledges and commitments that Mexico undertakes to fulfil, should it be elected. The document also includes information on Mexico's contributions to the Human Rights Council and the actions it has taken in accordance with the commitments it undertook for its membership in 2009-2012.

* A/68/50.

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Annex to the note verbale dated 26 November 2012 from the Permanent Mission of Mexico to the United Nations addressed to the President of the General Assembly

Candidature of Mexico to the Human Rights Council, 2014-2016

Voluntary pledges and commitments pursuant to General Assembly resolution 60/251

[Original: English, French and Spanish]

Mexico in the Human Rights Council: impact of its participation

1. Mexico has been a member of the Human Rights Council on two occasions (for the 2006-2009 and 2009-2012 terms). As a member of the Council, Mexico positioned itself as an actor with a tremendous sense of responsibility for promoting a cooperative approach, novel initiatives and timely action by this international body in response to critical human rights situations all over the world. In particular:

(a) Mexico campaigned for the creation of the Human Rights Council as a body that universally promotes and protects human rights and is capable of dealing with the situation of all human rights in any part of the world;

(b) As the Council's first President, Mexico strove to consolidate its mandate based on the principle of non-selectivity;

(c) Under Mexico's presidency, the Council established its institutional framework and operations and the tools that guide its work today, notably the universal periodic review mechanism;

(d) Under Mexico's presidency, the Council's institution-building was achieved through an inclusive, balanced and transparent process that led to a unanimous agreement to create a cooperation-based protection system;

(e) During the review of the Council's work and functioning, Mexico fostered open dialogue and encouraged proposals to reconcile diverse perspectives on how to strengthen the Council;

(f) Mexico advocated the adoption of procedures that increased the Council's institutional relevance, such as the one establishing a direct link between the Council and the General Assembly;

(g) Mexico helped to strengthen and broaden the participation of civil society, non-governmental organizations (NGOs), national human rights institutions and other stakeholders in the Council's work;

(h) Mexico promoted the view that only States that uphold the highest international human rights standards should be eligible for election to the Council and was attentive to the human rights promotion and protection obligations incumbent on the States members of the Council;

(i) Mexico sought to include language establishing criteria and providing greater flexibility to enable the Council to react proportionally, effectively and less selectively to situations of human rights violations;

(j) Mexico's work within the Council was guided by the principles of universality, non-selectivity, balance and accountability;

(k) As the tenth-largest contributor to the regular budget of the United Nations, and as a constant advocate of increasing the budget allocated to human rights, Mexico has been a source of financial support for the human rights protection system.

The Human Rights Council six years after its establishment

2. The Council's review process, agreed to by the General Assembly in the resolution that established this organ, has triggered a productive and thoughtful analysis among regions. The main result of this process can be perceived in the dynamics of the Council's sessions and in the actions it has taken under the different agenda items, particularly on pressing situations of human rights violations.

3. It is important to maintain the atmosphere of analysis and dialogue resulting from that process. While the Council has ceased to define itself by excluding that which it does not wish to be, it is currently in a phase in which it needs to complete the process of establishing itself as the primary organ for dealing with one of the three pillars of the United Nations system. In this context, the Council faces challenges of three main types: political, institutional and normative.

4. As part of the political challenge, the Council needs to find a way to respond appropriately to human rights violations and to react to them in a swift and timely manner.

5. The institutional challenge includes the need to increase the supply of cooperation in its broadest sense, thereby ensuring that countries cannot cite a lack of cooperation or their level of development to justify protection gaps. Above all, the Council should provide States with the tools they need to establish and consolidate effective regulatory frameworks and public policies that promote human rights. Cooperation also plays a fundamental role in prevention. Moreover, transparency should continue to be the basic principle underpinning the Council's own actions.

6. Lastly, as part of the normative challenge, the Council needs to rationalize the international regulatory framework for human rights. While there is already a range of human rights provisions, some treaty-based ("hard law") and others non-treaty-based ("soft law"), there is a continuous risk of generating "legislative inflation", whose results will not necessarily guarantee that human rights will be adequately safeguarded. Greater coherence is needed in the international normative framework.

A vision for the Human Rights Council

7. In the current context, the Human Rights Council must address these challenges in order to become an organ that:

(a) Spearheads change and does not limit itself to following events and reacting only in case of crisis;

(b) Serves primarily as a forum for cooperation in which members find elements to anchor the establishment of State policies on human rights, thanks to their cooperation with the international human rights system;

(c) Strengthens its crisis response capacity and treats urgent situations objectively.

Mexico's commitments to the promotion and protection of human rights (2014-2016)

8. Mexico's interest in actively participating in the work of the Human Rights Council arises from its recognition of the advantages of cooperating with international human rights bodies in order to fulfil its obligations in that area and in terms of building an international culture of respect for and promotion of human rights.

9. Mexico's aspiration to be a member of the Council for the 2014-2016 term is backed by its previous experience as a founding member of the Council, the role it played in the institution-building process and the notable developments that have taken place in recent years at the national level.

10. Mexico advocated the balanced treatment of the different items that make up the Council's broad agenda and promoted a culture of understanding and dialogue among delegations in order to reach creative solutions even in the most complex of subject matters. In consistently seeking to ensure that the Council's actions help to improve the promotion and protection of human rights on the ground, Mexico emphasized the progressive use of the tools available to the Council in order to respond adequately to different situations.

11. For the period 2014-2016, Mexico makes the following commitments related to the strengthening of and collaboration with the international system, compliance with the country's international obligations and domestic application of international standards:

(a) Contribute to the strengthening of the international human rights system and, especially, to the consolidation of the Human Rights Council in conformity with the June 2011 reform of the Mexican Constitution, which establishes the observance, protection and promotion of human rights as guiding principles of foreign policy;

(b) Foster the objective and effective treatment of human rights situations in any part of the world;

(c) Advocate the ongoing development of international human rights standards in order to fill any protection gaps and improve the coherence of the international normative framework;

(d) Remain an active and constructive participant in the Council in order to enable that organ to play an effective role in disseminating an international human rights culture and in engaging in two-way cooperation with the international human rights system in order to strengthen national structures;

(e) Consolidate the universal periodic review mechanism as a highly effective tool for cooperation, while ensuring that it is not seen merely as a forum for addressing chronic human rights violations, and intensify efforts to change national structures, particularly in the areas of institution-building, civil service training, dissemination of a human rights culture and broadening of dialogue with civil society;

(f) Ensure that the Human Rights Council has the budget it needs to carry out its activities, given that human rights constitute the third pillar of the United Nations;

(g) Promote the effectiveness and ensure the autonomy and independence of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and of the special procedures of the Council;

(h) Mainstream human rights in the work of the United Nations, based on the interrelationship among the development, security and human rights pillars, and promote coordination and complementarity between the work of the Council and that of the General Assembly and other organs;

(i) Comply with its international obligations, particularly those related to the submission of reports on the implementation of human rights treaties; establish effective mechanisms for following up on the recommendations of treaty bodies; and promote the strengthening of the treaty body system;

(j) Continue its policy of openness to all international human rights bodies and mechanisms and of collaboration with them in following up on their recommendations and supporting their mandates in the competent international forums;

(k) Pursue its collaboration with the regional system and comply with the judgements of the Inter-American Court of Human Rights and the recommendations of the Inter-American Commission on Human Rights;

(l) At the domestic level, redouble its efforts to ensure appropriate constitutional reforms with respect to human rights, particularly with a view to the incorporation of international standards into national laws and public policies.

Accountability: actions taken by Mexico in compliance with its commitments (2009-2012)

A. Actions at the international level

Active participation in international human rights forums

12. Since the establishment of the Human Rights Council, Mexico has been widely acknowledged for its active and committed involvement in consolidating the Council as the primary United Nations organ for the protection and promotion of human rights worldwide.

13. Over the two terms in which Mexico was a member of the Human Rights Council, it encouraged international cooperation on human rights and promoted the Council's consideration of innovative and relevant issues and of human rights situations requiring the attention of the international community.

14. Under Mexico's presidency, the Human Rights Council reached agreement on an institution-building package and defined its working methods and tools. Mexico presided over an open and transparent process that culminated in a unanimous agreement that continues to reflect the necessary balance and a commitment to creating an effective, cooperation-based protection system equipped with the necessary mechanisms for addressing situations that require the Council's attention.

15. During the Council's review process, five years after its establishment, Mexico reaffirmed its stance in favour of promoting an inclusive dialogue with a view to reconciling diverse viewpoints and taking further concrete action to strengthen that organ.

16. With respect to the promotion of the highest international human rights standards, Mexico has advocated initiatives not only within the Council, but also in the United Nations and Organization of American States (OAS) General Assemblies, on the rights of women, migrants, persons with disabilities and indigenous peoples, the protection of human rights while countering terrorism and the rights of internally displaced persons, detainees and human rights defenders.

17. An example of this is the presentation, along with Colombia, of the resolution that in 2010 established the working group on the issue of discrimination against women in law and in practice, whose work includes the identification and promotion of good practices conducive to the elimination of this obstacle.

18. Likewise, Mexico supported the establishment, in 2010, of the mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, for the study of experiences and challenges related to these rights.

19. Another aspect that merits attention is Mexico's groundbreaking stance in proposing, together with Turkey and in the framework of the nineteenth regular session of the Human Rights Council (2012), a novel initiative regarding birth registration and the right of everyone to recognition everywhere as a person before the law. This resolution, which had 117 sponsors, provides an essential foundation for the full exercise of children's rights.

20. In 2012 Mexico was also one of the countries that promoted the resolution on the right of women and children to a nationality, specifically with a view to protecting them from abuse and exploitation, especially trafficking, due to lack of access to birth registration, property ownership and employment.

21. Mexico has continued to support the human rights agenda in all United Nations forums, including the General Assembly and the Economic and Social Council, and this has translated into the strengthening of the mandate and the resources needed for the functioning of human rights mechanisms.

22. Mexico was instrumental in ensuring that the General Assembly provided the resources needed to finance the Council's non-scheduled activities (special sessions and commissions of inquiry), supporting the Office of the President of the Human Rights Council and endorsing requests for the extension of treaty bodies' sessions for the consideration of reports. Mexico also makes voluntary contributions to the regular budget of OHCHR, other thematic mechanisms of the Council and the United Nations agenda for gender equality and women's empowerment.

23. Furthermore, Mexico has sought to promote an integrated approach to ensure the indivisibility, complementarity and universality of all human rights and their incorporation into other processes, such as the follow-up to the Millennium Development Goals, the United Nations Conference on Sustainable Development and the high-level meeting of the General Assembly on the rule of law at the national and international levels.

24. As a non-permanent member of the Security Council (2009-2010), Mexico maintained a firm stance in favour of international law and respect for human rights in resolving conflicts and consolidating peace. Accordingly, Mexico supported the establishment of an Office of the Ombudsperson to promote fair and clear procedures in the framework of the counter-terrorism sanctions regime. Mexico also chaired the Security Council Working Group on Children and Armed Conflict, and

strengthened its work following the adoption of resolution 1882 (2009). Mexico also promoted gender mainstreaming, prevention of sexual violence and active participation by women in mediation and peacebuilding processes.

Openness and full cooperation with international human rights mechanisms and other relevant actors

25. Mexico maintains a standing and open invitation to all international, regional and universal human rights mechanisms. Consequently, from the time Mexico became a member of the Council to the present (2006-2012), 15 mechanisms on such wide-ranging issues as migrants' rights, torture and children have visited the country. Mexico is convinced that their experience and professionalism can serve to strengthen the public policy framework and the implementation of international obligations.

26. In particular, since its re-election in 2009, Mexico has received the following visits:

(a) Rapporteur for Mexico of the Inter-American Commission on Human Rights (27-29 September 2011);

(b) Rapporteur on Migrant Workers and Members of Their Families of the Inter-American Commission on Human Rights (25 July-2 August 2011);

(c) United Nations High Commissioner for Human Rights (4-8 July 2011);

(d) United Nations Special Rapporteur on the right to food (13-20 June 2011);

(e) United Nations Working Group on Enforced or Involuntary Disappearances (18-31 March 2011);

(f) United Nations Special Rapporteur on the independence of judges and lawyers (1-15 October 2010);

(g) Joint visit by the United Nations and Inter-American Commission on Human Rights Special Rapporteurs on the right to freedom of expression (9-24 August 2010);

(h) United Nations Special Rapporteur on the right to education (8-18 February 2010).

27. Mexico also attaches great importance to the process of drafting and presenting periodic reports to treaty bodies, as it represents an opportunity to take stock of the domestic protection of human rights and, on that basis, to design public policies for its improvement. Mexico is practically up to date with the presentation of treaty body reports and promotes national mechanisms to follow up on their recommendations. In recent years, the following reports have been drafted and presented:

(a) Combined seventh and eighth periodic report to the Committee on the Elimination of Discrimination against Women (considered in 2012 and submitted in 2010);

(b) Combined sixteenth and seventeenth periodic report to the Committee on the Elimination of Racial Discrimination (considered in 2012 and submitted in 2010);

(c) Second periodic report to the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (considered in 2011 and submitted in 2010);

(d) Initial report to the Committee on the Rights of the Child on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (considered in 2011 and submitted in 2008);

(e) Initial report to the Committee on the Rights of the Child on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (considered in 2011 and submitted in 2008);

(f) Fifth periodic report to the Human Rights Committee on the International Covenant on Civil and Political Rights (considered in 2010 and submitted in 2008);

(g) Combined fifth and sixth periodic report to the Committee against Torture (to be considered in November 2012, submitted in 2011); the fourth report to this Committee was considered in 2007;

(h) Combined fourth and fifth report to the Committee on the Rights of the Child (submitted in 2012);

(i) Initial report to the Committee on the Rights of Persons with Disabilities (submitted in 2011).

28. Mexico has presented its national report, which was considered by the universal periodic review mechanism on 10 February 2009. Strenuous efforts have been made to implement the recommendations that were made to Mexico in the context of the 2008-2012 National Human Rights Programme.

29. The universal periodic review has been of great value to Mexico. Among the most important achievements that have resulted from implemented recommendations are the constitutional human rights and *amparo* reforms; the migration reform; the decision of the Supreme Court of Justice to restrict military jurisdiction so that members of the armed forces who commit human rights violations are tried in civilian courts; and measures to protect freedom of expression, including the classification of offences against journalists as federal offences.

30. As part of its policy of respect for the establishment and strengthening of international human rights protection mechanisms, Mexico is making every effort to comply fully with the judgements of the Inter-American Court of Human Rights and the decisions of the Inter-American Commission on Human Rights, by adopting domestic measures for their adequate implementation.

Ongoing dialogue with civil society

31. As part of its policy of openness and cooperation, Mexico maintains a dialogue with civil society and with national and international human rights NGOs. In the domestic sphere, Mexico has a vigorous, active civil society that closely monitors the promotion and protection of human rights.

32. The Mexican Government has a Commission on Government Human Rights Policy as a forum for dialogue between the federal public administration and civil society organizations. The Government maintains a close relationship with civil

society, including in the drafting of treaty body reports and in complying with international obligations.

33. This collaboration also extends to the international sphere, as Mexico maintains an open dialogue with the main international human rights and civil society organizations in other countries. Additionally, Mexico has played a significant role in supporting the participation of civil society organizations in the Human Rights Council and has also fostered the participation of indigenous peoples' representatives in the World Conference on Indigenous Peoples, to be held in September 2014.

Collaboration with the Office of the United Nations High Commissioner for Human Rights

34. Given the importance that Mexico attaches to cooperation for the promotion of human rights, an OHCHR country office was established in Mexico a decade ago at the country's request. Since then, Mexico has maintained fruitful cooperation with that office and has received five visits from heads of OHCHR. The most recent visits were those of High Commissioners Navi Pillay in July 2011 and Louise Arbour in February 2008.

35. As part of a joint initiative between the Ministry of Foreign Affairs, OHCHR and the Centre for Economic Research and Teaching, in 2011 a public website was established (http://recomendacionesdh.mx/) on which international human rights recommendations to Mexico have been systematized as a public policy tool that allows new advances in this area.

B. Actions at the national level

Legislative harmonization

36. The constitutional reforms on human rights (2011), *amparo* proceedings (2011) and the criminal justice system (2008), the migration reform and the decisions of the Supreme Court of Justice to restrict military jurisdiction in cases of human rights violations (2011-2012) constitute some of the most important advances of the past few years in the protection of fundamental rights in Mexico.

37. Mexico is currently witnessing the greatest expansion of its legal framework for human rights. This will have a vital impact on the acceleration of legislative harmonization, as the highest international human rights standards are incorporated at all levels of government. Among the main actions are those highlighted in paragraphs 38-45 below.

38. In June 2011, a constitutional reform on human rights was enacted, through which the human rights provided for in international treaties to which Mexico is a party are incorporated into the constitutional catalogue of human rights. The reform also incorporates the *pro personae* principle of legal interpretation and the State's obligations to prevent, investigate, punish and redress human rights violations, as well as the obligations of all authorities to promote, respect, protect and guarantee those rights. It includes respect for human rights as a foreign policy principle, strengthens the powers of human rights protection entities in Mexico and creates a general normative framework for the country's human rights policy.

39. In addition, June 2011 saw the entry into force of a constitutional reform related to *amparo*, the jurisdictional concept par excellence for the protection of fundamental rights. This reform, in addition to serving as a basis for a comprehensive reform of *amparo*, was aimed at extending the scope of *amparo* proceedings to include the protection of human rights.

40. Between January and May 2011, Mexico introduced several legal changes that ushered in a new era in migratory issues. These changes include the enactment of a Refugee and Complementary Protection Act whose provisions are based on best institutional practices, as well as a new Migration Act that, among other things, decriminalizes migration and recognizes the rights of access to justice, education, health and civil registration for migrants and members of their families, regardless of their migration status.

41. All three branches of government have been involved in harmonizing the domestic legal framework — and the administration of justice — with the international obligations undertaken by the country. In 2011, the Supreme Court of Justice determined that an article of the Code of Military Justice was incompatible with the American Convention on Human Rights and, as a result of that analysis, established the restriction of military jurisdiction in cases in which members of the armed forces commit human rights violations. The Court added that judges should apply a "treaty test" to verify the compatibility of their decisions with the international human rights treaties to which Mexico is a party.

42. In October 2011, the Constitution was reformed to recognize the right of every person to nutritious, sufficient and quality food; the reform also clearly defined the State's responsibility to guarantee this right. In February 2012, article 3 of the Constitution was amended to make upper secondary education mandatory, as a way to strengthen equality of rights, and article 4 was reformed to include, for the first time, the right to a healthy environment and the right to sufficient and affordable access to and availability of healthy and acceptable treated water for personal and household use, as well as the State's responsibility to guarantee this right.

43. In May 2011, the Inclusion of Persons with Disabilities Act was promulgated. This general law lays the foundation for harmonizing domestic legislation with the Convention on the Rights of Persons with Disabilities, ratified in 2007, and for mandating the implementation of public policies to benefit this sector.

44. In June 2012, the Protection of Human Rights Defenders and Journalists Act entered into force. This law establishes a mechanism for the protection of human rights defenders and journalists and provides for a series of gradual measures to guarantee their rights to life, integrity, liberty and security.

45. Also in June 2012, an amendment to the Constitution was published whereby the federal authorities also have jurisdiction with regard to non-federal offences committed against journalists, persons or facilities in violation of the right to freedom of expression or the right to information.

Institutional strengthening and human rights policymaking

46. Mexico has strengthened its institutional structures for the promotion and protection of human rights:

(a) The 2008-2012 National Human Rights Programme, which is mandatory for all institutions of the federal executive branch, strengthens the mainstreaming of human rights in public administration;

(b) The National Human Rights Commission now has the power to investigate cases of grave human rights violations and to file complaints as a result of such investigations;

(c) The country has established a National Commission to Prevent and Eradicate Violence against Women(2009), professionalized the National Migration Institute to strengthen its ability to address and protect the rights of migrants (2011) and broadened the powers of the National Council for the Development and Inclusion of Persons with Disabilities (2011).

Human rights and security

47. In recent years Mexico has faced the challenge of organized crime and has made enormous efforts to guarantee that actions to counter organized crime are carried out with the strictest respect for human rights and legality. Mexico has preserved the security of its citizens while complying with internal policies and international commitments with regard to security.

48. To that end, a policy of constant training and modernization of the security forces of the three branches of government has been carried out, particularly with regard to respect for human rights.

49. In December 2011 the authorities announced institution-building measures on several fronts, including the establishment of protocols to regulate the legitimate use of force by federal and ministerial police, soldiers and sailors; protocols regarding arrest and presentation of detainees before a competent authority; and protocols for the preservation of evidence and the chain of custody when a crime has been committed.

50. Collaboration with the National Human Rights Commission continues; in 2011, the recommendations received by the Ministry of Defence (25) and the Ministry of the Navy (6) were accepted in full.

51. In addition, human rights structures for the protection of children and victims of violence, as well as the systematization of information on missing persons, have been strengthened. For example, a law enforcement protocol for the protection of minors has been introduced and a national registry of data on lost or missing persons has been established.